

LABOR SERVICES DIVISION[875]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 88B.3 and 91C.6, the Labor Commissioner hereby amends Chapter 150, “Construction Contractor Registration,” and Chapter 155, “Asbestos Removal and Encapsulation,” Iowa Administrative Code.

With one exception, these rules apply to work on structures that are both located in an area that is subject to a disaster emergency proclamation pursuant to Iowa Code section 29C.6 and damaged by circumstances related to those that caused the disaster emergency proclamation. These rules adopt a clarifying definition concerning which contractors are required to be registered pursuant to Iowa Code chapter 91C, establish criteria for asbestos abatement licenses, and ease the requirement that asbestos abatement permittees provide notice at least ten days in advance of beginning an asbestos abatement project.

These amendments allow electronic transmission of asbestos abatement project notifications for all asbestos work.

In recent weeks, Iowa has experienced unprecedented damage caused by storms and floods. The scope of disaster recovery work requires assistance from workers and businesses based in other states. Rapid recovery is necessary to the public safety and health due to the many dangers that exist in damaged areas. The Labor Commissioner finds that rapid implementation of these amendments is needed to facilitate orderly, safe, and healthy disaster recovery.

Pursuant to Iowa Code section 17A.4(2) and for the reasons discussed above, the Labor Commissioner finds that notice and public participation are impracticable and that delay would be contrary to the public interest.

Pursuant to Iowa Code section 17A.5(2)“b”(2) and for the reasons discussed above, the Labor Commissioner finds that the normal effective date for these amendments should be waived. Making these amendments effective immediately is appropriate to confer benefits on residents of disaster zones, to remove restrictions on businesses and individuals working on disaster recovery, and to protect the public safety, health and welfare by facilitating rapid, safe, and orderly disaster recovery.

These amendments are intended to implement Iowa Code chapters 88B and 91C.

These amendments became effective June 25, 2008.

The following amendments are adopted.

ITEM 1. Amend rule **875—150.2(91C)**, “Construction” as follows:

“*Construction*” means new work, additions, alterations, reconstruction, installations, repairs and demolitions. Construction activities are generally administered or managed from a relatively fixed place of business, but the actual construction work is performed at one or more different sites which may be dispersed geographically. Examples of construction activities, adopted by reference, are in 871—23.82(96) for purposes of the Iowa employment security law. For work on structures that are both located in an area that is subject to a disaster emergency proclamation pursuant to Iowa Code section 29C.6 and damaged by circumstances related to those that caused the disaster emergency proclamation, “construction” includes asbestos abatement.

ITEM 2. Amend subrule 155.5(1) as follows:

155.5(1) General. Permittees shall notify the division at least ten working days before an asbestos project begins. A project begins when site preparations for asbestos abatement, encapsulation, or removal begin; when asbestos abatement, encapsulation, or removal begins; or when any demolition begins, whichever is sooner. ~~Facsimile~~ Legible electronic transmissions of ten-day notices in the proper format shall ~~not~~ be accepted.

ITEM 3. Adopt the following **new** subrule 155.5(4):

155.5(4) Disaster emergency proclamations. For structures that are both located in an area that is subject to a disaster emergency proclamation pursuant to Iowa Code section 29C.6 and damaged by

circumstances related to those that caused the disaster emergency proclamation, the permittee shall file the notice described by this rule as early as possible, but not later than the working day following the initiation of the project.

ITEM 4. Adopt the following **new** subrule 155.6(11):

155.6(11) *Disaster emergency proclamations.* For work on structures that are both located in an area that is subject to a disaster emergency proclamation pursuant to Iowa Code section 29C.6 and damaged by circumstances related to those that caused the disaster emergency proclamation, the labor commissioner deems an individual to be licensed and authorized for asbestos abatement if all of the criteria in either paragraph “a” or paragraph “b” are met:

a. The individual contractor, supervisor, or worker makes the following immediately available on the work site:

(1) A copy of a certificate for training that was provided within the past twelve months by a course provider approved by the U.S. Environmental Protection Agency and that pertains to the work being performed;

(2) A copy of a physician’s statement indicating that, consistent with 29 CFR 1910.134, a licensed physician has examined the individual within the past 12 months and approved the individual to work while wearing a respirator;

(3) Documentation of a respirator fit test consistent with 29 CFR 1910.134 within the past 12 months;

(4) A valid, current asbestos license issued by another state that pertains to the type of work being performed; and

(5) A photo identification card; or

b. The individual working as a project designer, inspector, or management planner makes the following immediately available on the work site:

(1) A copy of a certificate for training by a course provider approved by the U.S. Environmental Protection Agency and that pertains to the work being performed;

(2) A valid, current asbestos license issued by another state that pertains to the type of work being performed; and

(3) A photo identification card.

[Filed Emergency 6/25/08, effective 6/25/08]

[Published 7/16/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.